

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6126

BILL NUMBER: HB 1034

NOTE PREPARED: Nov 8, 2005

BILL AMENDED:

SUBJECT: Defenses to Controlled Substance Offenses.

FIRST AUTHOR: Rep. Davis

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill repeals defenses for a person charged with a felony drug offense that is elevated because the person was within 1,000 feet of school property, a public park, a family housing complex, or a youth program center.

Effective Date: July 1, 2006.

Explanation of State Expenditures: Under current law, certain offenses receive enhanced penalties if it can be proved that they took place within 1,000 feet of school property, a public park, a family housing complex, or a youth program center. However, the law provides certain defenses to the enhanced penalty that, under the bill, would be removed. To the extent that more enhanced penalties could occur without the defenses, the state would incur additional costs for longer periods of incarceration. However, there are no data available to indicate how many additional offenders may receive enhanced penalties as the result of repeal of the defenses.

The fiscal impact of enhanced penalties occurs when the offender remains in custody beyond the time that the offender would have served for the underlying offense. The average expenditure to house an adult offender was \$21,514 in FY 2004, ranging from a low of \$16,645 to a high of \$49,281. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Background Information: Below is the average annual number of offenders committed to state facilities between 1999 and 2004 for the underlying drug crime and for the enhanced penalties. (Note: There are other factors that could subject an offender to an enhanced penalty besides the location of the crime. Not all

offenders receiving an enhanced penalty committed a crime within 1,000 feet of school property, a public park, a family housing complex, or a youth program center.)

Indiana Code Cite and Description	Underlying Crime Class ----- Enhanced Penalty Class	Average Annual Number of Commitments 1999 - 2004
IC 35-48-4-1 Dealing in Cocaine or a Narcotic Drug	Class B	141
	Class A	880
IC 35-48-4-2 Dealing in Schedule I, II, or III Controlled Substance	Class B	9
	Class A	231
IC 35-48-4-3 Dealing in a Schedule IV Controlled Substance	Class C	5
	Class B	16
IC 35-48-4-4 Dealing in a Schedule V Controlled Substance	Class D	2
	Class B	2
IC 35-48-4-6 Possession of Cocaine or Narcotic Drug	Class D	450
	Class B or Class A	110 24
IC 35-48-4-7 Possession of Schedule IV Controlled Substance	Class D	176
	Class C	43
IC 35-48-4-10 Dealing in Marijuana, Hash Oil, or Hashish	Class D	48
	Class C	68
IC 35-48-4-14.5 Possession of Precursors to Methamphetamine	Class D	52
	Class C	10

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected:

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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